



C.M.A.(MD).No.699 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.699 of 2018

1. Balamalai
2. Piramila Devi

.....Appellants/ Petitioners

-VS-

1. S.K.Murugavel

2. M/s. Reliance General Insurance Company Ltd.,
Branch Office,
Pandicheri.

.... Respondents /Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award, dated 09.10.2015 in M.C.O.P.No.173 of 2013, on the file of the Motor Accidents Claims Tribunal (Special District Court), Tiruchirapalli.

For Appellants : Mr.S.Rajasekar

For Respondents : Mr.V.Sakthivel – for R2
: No appearance – for R1



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The present Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of the compensation of the award passed by the Motor Accidents Claims Tribunal/Special District Court, Tiruchirapalli, in M.C.O.P. No.173 of 2013.

2. At the time of the accident, the deceased was 16 years old boy and he was studying in the 9th standard. The Tribunal has fixed the notional income at Rs.3,000/- (Rupees Three Thousand only) and applying the multiplier considering the age of the parents and thereafter, arrived at the loss of income of Rs.2,70,000/- (Rupees Two Lakhs Seventy Thousand only). The Tribunal further awarded a sum of Rs.30,000/- (Rupees Thirty Thousand only) towards loss of love and affection, a sum of Rs.20,000/- (Rupees Twenty Thousand only) towards funeral expenses and transportation expenses, totally a sum of Rs.3,20,000/- (Rupees Three Lakhs and Twenty Thousand only) awarded by the Tribunal. This award is under challenge in the present appeal.

3. According to the learned counsel appearing for the appellants, the Tribunal has not taken into consideration the future prospects of the deceased



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boy who was studying in the 9th standard. He further contended that towards loss of love and affection, the Tribunal has awarded only a sum of Rs.30,000/- (Rupees Thirty Thousand only) which is on the lesser side. The Tribunal ought to have awarded higher the amount under the head of funeral expenses and transportation charges. He further contended that the Tribunal had applied the multiplier, considering the age of the parents. Hence, he prayed for enhancing the award amount.

4. Per contra, the learned counsel appearing for the second respondent/ Insurance Company had contended that the Tribunal has properly appreciated the oral and documentary evidence and arrived at a reasonable quantum a sum of Rs.3,20,000/- (Rupees Three Lakhs and Twenty Thousand only) and therefore, does not require any enhancement.

5. I have carefully considered the submissions made by the learned counsel on either side.

6. The Tribunal has rightly fixed the notional monthly income at Rs.3,000/- (Rupees Three Thousand only) per month and deducted 50% towards personal expenses of the deceased and arrived at the monthly income



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of Rs.1,500/- (Rupees One Thousand and Five Hundred only). However, the Tribunal has not added 40% towards future prospects. By adding 40%, the total monthly income would arrive at Rs.2,100/- (Rupees Two Thousand and one hundred only). The Tribunal had erroneously taken into consideration, the age of the parents at the time of fixing the multiplier. The correct multiplier for the age of the deceased person is “18” and therefore, the total award amount under the head of loss of income would be a sum of Rs.2,100x 12x 18 = as Rs.4,53,600/- (Rupees Four Lakhs Fifty Three Thousand and Six hundred only).

7. The Tribunal had only awarded a sum of Rs.30,000/- (Rupees Thirty Thousand only) towards loss of love and affection. However, this Court is inclined to award a sum of Rs.40,000/- (Rupees Forty Thousand only) each to both the claimants. The Tribunal has tagged both the funeral expenses and the transport expenses and has awarded a sum of Rs.20,000/- (Rupees Twenty Thousand only). This Court is inclined to award a sum of Rs.20,000/- (Rupees Twenty Thousand only) towards funeral expenses and a sum of Rs.10,000/- (Rupees Ten Thousand only) towards transport charges.



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8. In view of the above said deliberations, the award of the Tribunal is modified as follows:

Loss of Income	: Rs. 4,53,600/-
Loss of Love and Affection	: Rs. 80,000/-
Funeral Expenses	: Rs. 20,000/-
Transportation Expenses	: <u>Rs. 10,000/-</u>
Total	: <u>Rs. 5,63,600/-</u>

9. Therefore, the award of the Tribunal is modified and enhanced from Rs.3,20,000/- (Rupees Three Lakhs and Twenty Thousand only) to Rs.5,63,600/- (Rupees Five Lakhs Sixty Three Thousand and Six Hundred only) and the said enhanced award amount will carry interest at the rate of 7.5% per annum from the date of the claim petition till the date of realisation. The 2nd respondent/Insurance Company is directed to deposit the enhanced amount with interest and costs, within a period of eight weeks from the date of receipt of a copy of this order. Thereafter, the claimants are permitted to withdraw the award amount as per the apportionment made by the Tribunal.



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10. Accordingly, this Civil Miscellaneous Appeal stands allowed to the extent as stated above. There shall be no order as to costs.

05.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accident Claims Tribunal/
Special District Court,
Tiruchirappalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR,J.



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